UNITED
NATIONS

CCPR

International covenant
on civil and
political rights

Distr.
GENERAL

CCPR/C/115/Add.1
15 October 1997

ENGLISH
Original: FRENCH

HUMAN RIGHTS COMMITTEE

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 40 OF THE COVENANT

Fourth periodic reports of States parties due in 1996

Addendum

MOROCCO 1/

[27 January 1998]

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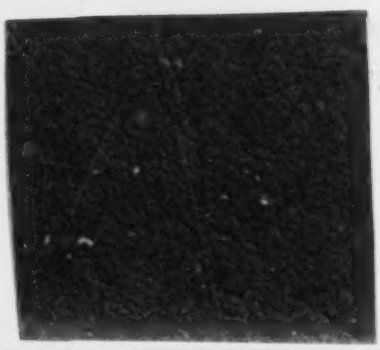
1/ For the third periodic report submitted by the Government of Morocco, see document CCPR/C/76/Add.3 and Add.4; for its consideration by the Committee, see documents CCPR/C/SR.1364 to SR.1366 and Official Records of the General Assembly, Fiftieth session, Supplement No. 40 (A/50/40), paragraphs 99-122.

GE.98-18559 (E)



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Introduction

1. In the 1990s, as a result of the determination of His Majesty the King, human rights received added institutional backing with the creation of the Advisory Council on Human Rights and the Ministry of Human Rights, as well as formal recognition in the revised Constitutions of 4 September 1992 and 13 September 1996.

2. In keeping with its institutional values and international commitments, Morocco introduced a number of legal and institutional measures to improve and increase observance of human rights.

The Constitution

3. In its preamble, the Moroccan Constitution of 13 September 1996 declares that the Kingdom of Morocco subscribes to the principles, rights and obligations deriving from the charters of the international bodies of wnich it is a member and "reaffirms its dedication to human rights as universally recognized". The new Constitution introduced a bicameral system whereby "Parliament consists of two chambers, the Chamber of Representatives and the Chamber of Councillors" (art. 36).

4. The Constitution also expands the prerogatives of Parliament and strengthens its power of oversight over the Government.

5. Under article 42, parliamentary oversight has been strengthened by empowering the Chamber of Representatives to set up commissions of inquiry. These commissions are "set up to gather information on specific matters and submit their conclusions to the Chamber of Representatives". They will thus be able to investigate any violations of human rights.

6. Article 76 of the new Constitution stipulates that "the Chamber of Representatives may call the Government to account by a motion of censure". To be admissible, such a motion need only be signed by one quarter of the members of the Chamber.

7. Article 81 provides that Parliament may, at the request of one quarter of the Deputies, submit to the Constitutional Council any dispute about the constitutionality of legislation before it is enacted.

8. The 1996 Constitution also institutes an Economic and Social Council (art. 93) to which the Chamber of Representatives and the Chamber of Councillors may refer any economic or social question before voting on relevant legislation (art. 94).

Legislative and regulatory texts

9. Morocco's policy on crime has been further liberalized by new legislative measures.

10. For example, the length of time for which a person may be held in police custody has been shortened (Act No. 67-90, enacted by Dahir No. 1-91-110

of 30 December 1991) and new guarantees have been extended to individuals who have been charged during the period of custody: assistance of a lawyer at the preliminary examination and medical examination on request.

11. New measures for the release of the accused on bail have also been adopted (Dahir No. 1-92-2 of 10 September 1993).

12. The repeal by Parliament (July 1994) of the Dahir of 29 June 1935 on the control of disorderly demonstrations and disrespect for the authorities is a further illustration of the new policy on crime.

13. With a view to ensuring the better, more independent and more impartial administration of justice, the collegiate system has been reinstated in courts of first instance where verdicts are now reached by a panel of three judges (Dahir promulgating law No. 1-93-205 of 10 September 1993).

14. In addition, the creation of administrative courts (Dahir No. 1-91-225 of 10 September 1993) has also helped to ensure the legality of administrative measures.

15. The legal status of women has improved significantly (Dahirs of 10 September 1993). Forced marriage has been abolished. New guarantees requiring the woman's consent to the marriage before and during the drafting of the marriage contract have been introduced. Polygamy is subject to judicial authorization. Unilateral repudiation by the husband has been made more difficult and anyone misusing it must pay compensation. In the event of the death or incapacity of the father of her children, a mother of legal age becomes their legal guardian.

16. Married women are now fully entitled to enter into contracts and provide services. The Chamber of Representatives unanimously passed the bill repealing article 726 of the Dahir on obligations and contracts. Under that article, "a married woman may not provide nursing or other services without her husband's authorization".

17. The rights of the child have been strengthened. Legislation has been adopted on child neglect and legal foster care (kafala) by a couple, agency or officially recognized welfare organization (Dahir enacting law No. 1-93-165 of 10 September 1993).

18. In 1992, the age of majority was lowered to 20 (law No. 13-92 enacted by Dahir No. 1-92-91 of 11 June 1992).

19. An instance of discrimination against fathers has been eliminated by making them second in line for custody of their children, whereas beforehand they were not included on the list of those entitled to custody (hadana).

20. In the area of information, rules governing the profession of journalism were adopted on 26 January 1995 (Bulletin officiel No. 4318 of 2 August 1995). Another notable democratic measure is State subsidizing of all partisan organs of the press.

21. As regards economic and social rights, incentives have been introduced for institutions offering training courses for school-leavers in an effort to reduce unemployment among this category of first-time employment seekers (Dahir of 23 March 1993 and decree of 5 April 1993) and legislation creating a youth employment fund has recently been passed (July 1994).

22. In addition, the Industrial Investment Code offers industrial employers, whether they are men or women, a number of incentives, provided they meet certain conditions.

23. A husband's authorization is no longer required in order to obtain a passport.

24. Parliament is considering a proposal to repeal article 6 of the Commercial Code of 12 August 1913 which requires a wife to obtain her husband's permission to run a business. To avoid any other interpretation, article 17 of the new Commercial Code clearly establishes a wife's freedom to run a business (law No. 15-95 (Commercial Code) published in the Bulletin officiel of 3 October 1996).

25. Finally, under the draft labour code, a wife no longer requires her husband's permission to take up paid employment and women are no longer prohibited from working at night.

26. As regards social rights, preventive care, diagnosis, treatment, education, instruction, training, qualification and social insertion of the handicapped are provided for in the law promulgated by Dahir No. 1-92-30 of 10 September 1993.

I. INFORMATION RELATING TO ARTICLES 1 TO 27 OF THE COVENANT

Article 1. Right to self determination

27. The right of peoples to self-determination is embodied in the Moroccan Constitution of 13 September 1996, as before.

28. Articles 1, 2 and 3 of the Constitution stipulate that Morocco is a constitutional, democratic and social monarchy, that national sovereignty shall be exercised directly by referendum and indirectly through the constitutional institutions, and that political parties, trade-union organizations, community councils and professional associations shall participate in the organization and representation of citizens.

29. Moreover, Morocco was one of the first countries to join the international community's efforts to promote the self-determination of peoples and their right to freely dispose of their natural wealth and resources.

30. Morocco's support for the relevant resolutions of the United Nations General Assembly, particularly resolutions 1514 (XV) of 14 December 1960, 1803 (XVII) of 14 December 1962, 2625 (XXV) of 24 October 1970, 3201 (S-VI) of 1 May 1974 and 41/128 of 4 December 1986, demonstrates Morocco's commitment to

the defence of the principles of international law relating to self-determination, in accordance with the Charter of the United Nations and the various resolutions of the United Nations General Assembly.

31. As in the past, Morocco can only reiterate its commitment to the exercise of the right to self-determination pursuant to resolution 1514 (XV), as also provided for in article 1 of the International Covenant on Civil and Political Rights.

Article 2. Implementation of the Covenant within the country

32. The Moroccan Constitution, as revised on 13 September 1996, contains a number of provisions guaranteeing the rights recognized by the Covenant. They include: article 5, which provides that "All Moroccans are equal before the law"; article 8, which provides that "men and women are equal as regards the enjoyment of political rights"; article 6, which guarantees freedom of worship; article 9, which guarantees all citizens' freedom of movement and residence throughout the Kingdom, freedom of opinion and expression of all types, freedom of association and membership of the trade-union and political organizations of their choice; article 10, which safeguards the right to privacy; and article 15, which guarantees the right of property.

33. Aliens enjoy the same rights as nationals, except as regards political activities.

34. The provisions of the Covenant are an integral part of domestic law. Accordingly, any breach of the Covenant's provisions may be appealed before the competent courts.

35. Furthermore, with a view to increasing public awareness and promoting the observance of human rights, Morocco has adopted a policy of making human rights part of the education and training of a number of officials of the executive and judicial branches. Instruction on the various international legal human rights instruments to which Morocco is a party (including the International Covenant on Civil and Political Rights) is given in the following institutes and establishments: National Institute for Judicial Studies, the Management Training School (for the training of senior officials of the Ministry of the Interior), the Royal Police Institute, the Royal Gendarmerie schools and the Royal Gendarmerie Academy.

Article 3. Equal rights for men and women

36. Under article 13 of the Moroccan Constitution, "all citizens have an equal right to education and employment".

37. There is no provision in Moroccan labour law which authorizes any form of discrimination between men and women, so that all workers enjoy the same rights on an equal footing.

38. This has been the basis for Morocco's ratification of ILO Conventions Nos. 100 and 111 on equal remuneration and non-discrimination in respect of employment and occupation respectively.

39. It is in the same spirit that the draft labour code recently laid before the Parliament contains rules prohibiting all discrimination between workers on the ground of sex, in particular, that would be contrary to the principle of equality of opportunity in respect of employment and occupation.

40. In order to put that equality into practice, a labour inspectorate has been established to monitor the application of the provisions of the labour code. Such monitoring is also among the functions of the judicial police.

41. In June 1993, Morocco acceded to the Convention on the Elimination of All Forms of Discrimination against Women.

42. The Moroccan Government's intention in acceding to that Convention was to link the status of women with human rights and recognize the close links between the promotion of the rights of the individual, democracy and socio-economic and cultural development. In so doing, Morocco undertook to pursue a policy of eliminating discrimination against women and to report regularly to the Committee on the Elimination of Discrimination against Women on progress in that area (Morocco submitted its initial report in July 1994, in accordance with article 18 of the Convention, that report will be considered on 14 January 1997).

43. The status of women is one of the major concerns of the Ministry for Human Rights which, since being set up in November 1993, has held a number of working meetings with women's organizations, as a result of which it drafted an action strategy for promoting women's rights in all areas, in cooperation with the ministerial departments concerned.

44. Whereas women's issues used to be seen largely from the social standpoint, the present approach is to link the status of women with human rights.

45. Equality between men and women is one of the State's main objectives and measures to attain it must be based on the principles of the Shariah and the United Nations legal instruments ratified by Morocco.

Article 4. Derogations from obligations under the Covenant

46. Although the Moroccan Constitution provides, in article 35, that a state of emergency may be proclaimed for reasons pertaining to the integrity of the national territory or jeopardizing the functioning of the constitutional institutions, no such measure has been taken since the entry into force of the Covenant in Morocco. Consequently, there has been no derogation from the obligations under the Covenant.

47. Moreover, article 35 further provides that "a state of emergency shall not entail the dissolution of Parliament". That is a new provision introduced with the revision of the Constitution of 4 September 1992 and retained in the revised Constitution of 13 September 1996.

Article 5. Prohibition of narrow interpretation of the Covenant

48. In ratifying the International Covenant on Civil and Political Rights on 13 September 1979, Morocco did not enter any reservation or objection or make any statement that could be interpreted as a restriction on any provision of the articles of the Covenant. It follows that all the provisions of the Covenant apply and may be invoked before the national courts.

49. Moreover, the 1992 Constitution, as revised on 13 September 1996, strengthens the rule of law in that, in addition to provisions protecting individual and collective freedoms adopted by Morocco on acceding to independence, it solemnly proclaims Morocco's commitment to human rights as universally recognized.

Article 6. Right to life

50. The right to life is protected by the various provisions of the Penal Code under which the taking of human life (murder, assassination, poisoning, unintentional homicide) is treated as a crime.

51. Furthermore, the death penalty is theoretically still in force in Morocco and may be imposed by the competent courts, in accordance with the applicable provisions, on persons convicted of extremely serious, heinous or abhorrent crimes. In practice, however, the courts concede mitigating circumstances and generally commute death sentences to life imprisonment. It should be noted that, since Morocco became independent, no woman sentenced to death has been executed.

52. It should also be noted that Morocco is a party to the Convention on the Prevention and Punishment of the Crime of Genocide and, as such, spares no effort to prevent and punish all acts of collective violence capable of causing arbitrary loss of human life.

Article 7. Prohibition of torture

53. The legal framework for this prohibition derives from article 10 of the Constitution which provides that "no one may be arrested, detained or punished except in the cases and in the manner prescribed by law" and thus establishes the principle of the prohibition of torture by making arrest, detention and punishment subject to the Penal Code and the Code of Criminal Procedure.

54. The Code of Criminal Procedure lays down the procedure to be followed from the police investigation up to the final verdict. It provides for the protection of the rights and physical integrity of the accused.

55. No one may be held in custody for more than 48 hours. In cases where there is serious and concurrent evidence against the individual in question, this time-limit may be extended by 24 hours on the written authorization of the Public Prosecutor (article 68 of the Code of Criminal Procedure).

56. These time-limits may be doubled in the case of offences against national security.

57. Under the Code of Criminal Procedure, the dates and times of the beginning and end of the custody must be placed on record and signed by the person being held, or his refusal to sign recorded (art. 69).

58. The criminal investigation officer is required to notify the family of any person detained in police custody. He must also submit daily to the Crown Procurator and Crown Procurator-General a list of the persons placed in police custody in the course of the previous 24 hours (art. 69).

59. If the custody results in referral to the judicial authorities, the Crown Procurator or the examining agistrate (depending on the gravity of the offence) must arrange for the accused person to undergo a medical examination when he is requested to do so or when he finds evidence justifying such an examination (arts. 76 and 127).

60. As soon as the person is referred to the judicial authorities, he or she must have the assistance of a lawyer.

61. Under the Penal Code, there are a number of offences involving attacks on the physical integrity of individuals which attract serious penalties when the violence is perpetrated by agents or representatives of the authorities. Under article 225 of the Penal Code, "Any magistrate, public official, agent or representative of the authorities or of the security forces who orders or performs an arbitrary act infringing individual freedom or the civil rights of one or more citizens shall be liable to civic dishonour".

62. Article 436 provides for penalties of up to 30 years' imprisonment, depending on the circumstances, for persons who, "without orders from the constituted authorities and except where the law permits or requires the capture of individuals, abduct, arrest, detain or confine any person".

63. The culprits are subject to the death penalty "if the person abducted, detained or confined has been subjected to physical torture" (art. 438).

64. In addition, the Department of National Security, like any administrative department, has an Inspector-General who, in addition to his basic task of general oversight of the operations of the police services, conducts inquiries into the behaviour of police officers towards the public and, in particular, citizens' complaints of illegal action or abuse of authority.

65. Where appropriate, the Inspector-General proposes that the officials involved should be subject to disciplinary measures or, if the acts in question constitute a criminal offence, that they should be brought before the competent court. The disciplinary measures taken against police officers, not including criminal penalties, for 1993 are listed below:

<u>Dismissal</u>	30
Unlawful violence and abuse of authority	3
Violence, abuse of authority and drunkenness	5

Indecent assault and attempted homicide	3
Influence peddling and invasion of privacy	5
Misuse and indiscriminate use of authority, armed threats and arbitrary arrest	3
Restriction of freedom of movement, abuse of authority and arbitrary arrest	3
Assault and battery and damage to the property of others, drunkenness	5
Abduction of a minor, kidnapping followed by premeditated murder	3
Compulsory retirement	4
Fraud, abuse of authority and arbitrary arrest	1
Influence peddling and inciting a married women to debauchery	1
Accessory to fraud, invasion of privacy, arbitrary arrest and use of violence	1
Infringement of individual freedom of movement, abuse of authority, and intimidation followed by extortion	1

Article 8. Prohibition of slavery

66. On attaining independence, Morocco ratified the three Conventions on slavery (the Slavery Convention of 25 September 1926; the Protocol amending the Slavery Convention; and the Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery of 7 September 1956).

67. It also acceded to other international conventions or arrangements on the suppression of the traffic in persons, such as the International Convention on the Suppression of the White Slave Traffic of 4 May 1910, amended by the Protocol of 4 May 1949, and the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others of 2 December 1949.

68. On 21 June 1993, it also ratified the Convention on the Rights of the Child (this Convention was published in the Bulletin officiel of 19 December 1996).

69. Morocco, which has always demonstrated its unshakeable dedication to Islam and to its moral and religious teachings prohibiting slavery and all other similar practices, is completely free of such practices.

70. In keeping with article 8, paragraph 3 of the Covenant, the Moroccan legislature has given serious attention to the protection of workers, be they young or adult, men or women, against all forms of abuse. Accordingly, the

Dahir of 2 July 1947 introducing labour regulations prohibits any employer or establishment from hiring children under 12 years of age. In the draft labour code, this age has been raised to 14.

Article 9. - Right to liberty and security of person

71. Respect for liberty of person is a principle embodied in the Constitution, article 10 of which states that "No one may be arrested, detained or punished except in the cases and in the manner prescribed by law." This provision covers:

The principle of legality of offences and penalties prescribed in article 46 of the Constitution and article 3 of the Penal Code, whereby offences and penalties can be established only by law;

The procedural aspect of the principle of legality, whereby no one may be prosecuted for an act not provided for by law or without proper legal procedure being followed (arrest, prosecution, trial).

72. Regarding article 9, paragraph 2, see sub-article 14, 3 (a).

73. The Code of Criminal Procedure subjects pre-trial detention to a number of precautionary measures designed to protect the rights and freedoms of suspects.

74. The length of time that a person may be held in custody by the judicial police for the purposes of the investigation, is limited to 48 hours. This period may be extended by 24 hours on the written authorization of the Crown Procurator. These time-limits are doubled in matters affecting State security. On the expiry of these time-limits, the detainee must be released or brought before the procurator.

75. At the preliminary hearing before the examining magistrate, the accused must be informed of the charges against him (art. 127). This hearing must take place before the accused can be remanded in custody pending trial.

76. Under the Code, pre-trial detention is an exceptional measure requiring a court order. Where it is ordered in the case of a first offender charged with an offence for which the maximum legal penalty is less than two years' imprisonment, it may not exceed one month, non-renewable. For more serious offences and crimes, it may not exceed two months. It may be renewed up to five times on the special reasoned order of the examining magistrate at the reasoned request of the Crown Procurator General (article 154 of the Code of Criminal Procedure). If the person charged is not brought before the court during this period, he or she must be released.

77. In all cases, pre-trial release may be ordered by the judge on the advice of the Crown Procurator on an undertaking by the accused to attend all stages of the proceedings. Release may be subject to the provision of surety.

78. A request for release may be made at any time to the examining magistrate who must immediately forward the case file to the procurator and rule within five days thereafter. It may also be requested in any case by any defendant or accused at any stage of the proceedings (art. 157).

79. Security of person is provided for at three stages in the judicial proceedings: the investigation and preliminary examination, the trial and the execution of the sentence.

80. At the investigation preliminary examination stage, the individual concerned may be placed in custody or pre-trial detention (see article 7 above). The regulations regarding custody, contained in articles 68, 82 and 169 of the Code of Criminal Procedure, as amended by Law No. 67-90 promulgated by Dahir No. 1-91-110 of 30 December 1991, limit this measure to 48 hours in cases of flagrante delicto and during the preliminary investigation, and to 24 hours in cases of letters rogatory. These time-limits may be extended by 24 hours in all three cases and, once only, to 96 hours in cases affecting the internal or external security of the State.

81. The accused is assisted by his attorney when brought before the prosecutor. Where it is considered necessary, a medical examination may be performed either on the instructions of the prosecutor or at the request of the accused or his attorney. The examining magistrate may also order a medical examination.

Article 10. Rights of detainees and persons deprived of their liberty

82. The legal status of detainees in prisons is governed by the provisions of the Dahirs of 11 April 1915 on prison regulations and 26 June 1930 concerning the prison service and prisons used for collective imprisonment. Obviously, this legislation is very outdated and its "philosophy" outmoded compared with the principles applied today in this area, as reflected in the United Nations Standard Minimum Rules for the Treatment of Prisoners, adopted by the Economic and Social Council on 31 July 1957 on the recommendation of the First United Nations Congress on the Prevention of Crime and Treatment of Offenders, held in Geneva in 1955. Consequently, a reform is at present under consideration to bring Moroccan law into line with the Minimum Rules.

83. In some respects, Moroccan law conforms to the Standard Minimum Rules, e.g. regarding the need to keep a record of each prisoner, the separation of categories of prisoners by sex, age and criminal background, ensuring personal hygiene, and the provision of food, clothing and clean bedding.

84. Detainees have rights. A guide for detainees issued by the Ministry of Justice reviews prevailing legal provisions and reduces their severity somewhat:

The right of detainees to inform their families of their incarceration;

The right of detainees to a cell which is ventilated and has the amenities necessary to ensure hygiene and cleanliness;

The right of detainees to be kept among prisoners of the same age and with similar criminal records, in conditions of mutual respect and coexistence;

The right of detainees to a hot bath at least once a week;

The right of detainees to be provided with wholesome and adequate food;

The right of detainees to be provided with food by their families;

The right of detainees to at least one hour of exercise in the open air and to be able to practise sports, except during official holidays;

The right of detainees to medical examinations and health care;

The right of female detainees to give birth in a hospital and, where a child is born in prison, not to have that fact mentioned on the birth certificate, to keep the child with them up to the age of four years and to have accomodation for themselves and their children;

The right of detainees not to be placed in a dark cell and not to be deprived of clothing and blankets, or of food;

The right of detainees not to be placed in handcuffs, except in the event of illness or during transport outside the prison;

The right of detainees to make complaints and to have them heard by the governor of the establishment, and to make complaints to the inspection commission or judicial authorities;

The right of detainees to make complaints to the central prison administration and be rehabilitated;

The right of detainees to receive visits and inspected correspondence, except where prohibited by the competent judicial authority;

The right of detainees to be in continuous contact with their lawyers;

The right of detainees who are aliens to communicate with the consular and diplomatic authorities representing their country;

The right of detainees to complete freedom of religion and to be in contact with the religious authorities of his faith;

The right of detainees to have the use of books in the prison library;

The right of detainees to financial compensation for any work done in the prison;

The right of detainees to pursue studies, including secondary and higher studies, or to receive vocational training;

The right of detainees to participate in cultural and recreational activities in the prison;

The right of detainees to obtain, at their own expense, national newspapers and books under the supervision of the prison.

85. Article 660 of the Code of Criminal Procedure provides for regular prison inspections by procurators and examining magistrates, but these inspections are not carried out. Regional inspection commissions have been provided for since 1959 (article 661 of the Code of Criminal Procedure), but have never been set up.

86. In practice, although detainees are entitled to certain rights, such as the pursuit of studies, including higher studies, or in the case of illiterate detainees, to receive instruction in reading and writing, or, as far as possible, to be provided with vocational training, the general conditions in Moroccan prisons are unsatisfactory, mainly because of the state of buildings, overcrowding, failure to separate prisoners on the basis of age and criminal record, the lack of adequate facilities to ensure hygiene and the lack of wholesome and adequate food. This deterioration in prisoners' conditions is partly due to the increase in the prison population. The Advisory Council on Human Rights has consistently drawn attention to this situation.

87. It should be noted that a number of measures have been taken in recent years to improve prison conditions and reduce overcrowding.

Article 11. Imprisonment for inability to fulfil a contractual obligation

88. Enforcement by committal is provided for in articles 673 et seq. of the Code of Criminal Procedure for the enforcement of fines, and the payment of reparations, damages and costs. In civil cases, enforcement by committal is provided for by article 1 of the Dahir of 20 February 1961, which states:

"The execution of all judgements or orders entailing the payment of a sum of money may be enforced by committal."

89. The duration of enforcement by committal is proportional to the size of sums to be paid.

90. However, it is subject to a number of restrictions designed to protect the defaulting debtor. Notably:

It is reduced by half when the convicted person demonstrates his insolvency by producing a certificate of indigence and a certificate of non-taxability (article 679 of the Code of Criminal Procedure);

It cannot be applied to persons of less than 16 or more than 65 years of age (art. 676, paras. 3 and 4);

It may not be imposed on a debtor for the benefit of his spouse, parents, children, brothers or sisters, uncles or aunts, nephews or nieces or any person related to the same degree (art. 676, para. 6);

It may not be applied simultaneously to husband and wife, even for different debts (art. 677);

It may be imposed only following a procedure laid down in the Code of Criminal Procedure, namely, order to pay which remains unexecuted for 10 days, application by the creditor, verification of the case file, which is then forwarded to the procurator for action (arts. 680 et seq.).

91. However, Morocco's ratification of the International Covenant on Civil and Political Rights should make the 1961 Dahir on enforcement by committal inapplicable in civil cases. Since 1992, the preamble to the Constitution has proclaimed that "aware of the need to incorporate its work within the framework of the international organizations of which it has become an active and dynamic member, the Kingdom of Morocco fully adheres to the principles, rights and obligations emanating from the charters of such organizations". However, even before 1992, although no provision specifically proclaimed the precedence of an international treaty over domestic law, the Supreme Court, which had to rule on the question, repeatedly reaffirmed that precedence (e.g. decrees No. 5 of 3 November 1972, No. 162 of 3 August 1979, No. 249 of 1 October 1976, published in the Revue juridique, politique et économique du Maroc, No. 5, 1979, pp. 145 et seq., and No. 13-14, 1983, pp. 141 and 147).

Article 12. Liberty of movement and freedom to leave one's country and return to it

92. Article 9 of the Moroccan Constitution guarantees all citizens "freedom of movement and establishment in all parts of the Kingdom". This right also applies, without any discrimination, to aliens who are lawfully present in national territory.

93. Moroccan nationals wishing to travel abroad are free to leave the national territory and return to it. To do so, they must be in possession of a valid passport and comply with the usual formalities.

Article 13. Prohibition of expulsion of aliens without legal safeguards

94. The entry, residence and temporary stay of aliens in Morocco are governed by Dahirs and/or bilateral conventions. The main Dahirs in this regard are those of 15 November 1934 and 21 February 1951 concerning the practice by aliens of an occupation in Morocco, and of 16 May 1941 concerning residence permits.

95. An alien may be expelled from Morocco for failure to comply with the legal requirements governing entry, residence and temporary stay, or for a serious offence against public order.

96. In the latter case, the Moroccan Government's policy was laid down in the order issued on 13 September 1991 for the deportation of a foreign national, as follows: "The Government of the Kingdom of Morocco is therefore justified in taking any measure for the deportation from Moroccan territory of foreign nationals committing grave offences against public order, including acts qualified as offences or crimes against internal security."

97. Aliens may appeal against a deportation order to the administrative court.

98. According to Ministry of the Interior statistics, the number of aliens holding Moroccan residence permits (in 1996) is about 75,000 (this figure does not include aliens who have undergone the registration procedure, which means that diplomatic and consular representatives are excluded).

Article 14. Equality before the law and right to a fair trial

99. The principle of equality for all before the law is proclaimed in the Constitution (art. 5): "All Moroccans are equal before the law." One aspect of this principle is the equality of all before the courts. The Constitution clearly affirms this in providing that no one may be arrested, detained or punished except in the cases and in the manners provided by law (see art. 9). Being punished "in the manners provided by law" means being tried by legally constituted courts in accordance with the rules of procedure laid down in the various codes.

100. The Constitution also guarantees the independence of courts by providing, in article 82: "The judicial authority is independent of the legislative power and of the executive power", and by providing, in article 85, for the irremovability of magistrates. The regulations governing the judiciary (Dahir of 11 November 1974) are intended, inter alia, to guarantee the independence of the judiciary.

101. In both civil and criminal cases, court proceedings are public. In the case of the civil courts, public proceedings are required by articles 43 (courts of first instance) and 339 (appeal courts) of the Code of Civil Procedure. The judge may order proceedings to be held in camera, however, in the interest of public order or morals.

102. Under articles 301 to 303 of the Code of Criminal Procedure, criminal proceedings must also be public, or be declared null and void. If the court considers that public proceedings may be a threat to public order or morals, it may order them to be held in camera. Trials of minors must be held in camera, however, regardless of the type of proceedings (Dahir of 28 September 1974, title IV).

103. While the principle of presumption of innocence is not explicitly stated in the Code of Criminal Procedure, it would not be an exaggeration to state that it underlies all the Code's provisions. The presentation accompanying the publication of the Code in 1959 is in fact explicit on this point: "The principle that any accused is presumed innocent is clearly the basis of the new Code. The principle of presumption of innocence applies to all persons, whether first-time or repeat offenders, and their records may not under any circumstances be invoked as proof of guilt."

104. Any person suspected of an offence has the right to be informed of the charges against him and to be assisted by a lawyer from the beginning of proceedings. This right was extended to all types of proceedings by Law No. 67-90, enacted on 30 December 1991, amending some articles of the Code of Criminal Procedure and otherwise improving the right to a defence.

105. In the case of offences for which there is no pre-trial examination, the accused is brought directly before the court and the summons must show the date, time and place of the hearing, the nature, date and place of the offence and the applicable provisions, if the proceedings are not to be declared null and void (article 367 of the Code of Criminal Procedure).

106. In the case of offences which require a pre-trial examination, the examining magistrate must, at the first examination, inform the accused of the charges against him; he must also inform him of his right to choose a lawyer and, if he does not choose one, appoint one if he so requests (article 127 of the Code of Criminal Procedure, amended and expanded in 1991).

107. In cases of flagrante delicto for which there is no pre-trial examination, the Crown Procurator-General may place the accused under a detention warrant. He must first question him, after informing him of his right to choose a lawyer or, if he does not do so, after appointing a lawyer for him. The lawyer thus selected or appointed has the right to attend the examination proceedings (article 2 of the Dahir of 28 September 1974, amended and expanded in 1991).

108. In the case of offences punishable by a term of imprisonment, if the offence is in flagrante or if the perpetrator does not provide proper guarantees of representation, the Crown Procurator may place the accused under a detention warrant. However, he must first inform him of his right to choose a lawyer and question him about the acts with which he is charged. The lawyer has the right to be present at these proceedings (article 76 of the Code of Criminal Procedure, as amended in 1991).

109. In cases of flagrante delicto, if the accused has been placed under a detention warrant by the Procurator-General, he must be brought before the trial court within 15 days (article 2 of the Dahir of 28 September 1974, as amended and expanded in 1991). In the case of other crimes, if the accused is placed under a detention warrant by the examining magistrate, such pre-trial detention may not exceed one year (see art. 8 (3)). The effect of this time-limit is to indirectly expedite proceedings and, in the event of a delay, to protect the liberty of the accused.

110. The accused must be present at criminal proceedings (article 308 of the Code of Criminal Procedure).

111. At any stage of the proceedings, the accused may request the assistance of a defence lawyer. Such assistance is mandatory in criminal proceedings. It is also mandatory in proceedings concerning ordinary offences where the accused is less than 16 years of age, mute, blind or afflicted by any other disability which might impair his defence or where he is liable to a sentence of rigorous imprisonment (habitual offender) (arts. 310 and 311).

112. Whatever the type of offence, the accused may ask for witnesses to be called. The Public Prosecutor and claimants for criminal indemnification have the same right (art. 319).

113. However, the costs of calling witnesses heard at the request of the accused (criminal cases) and the payment of allowances to them are borne by

the accused; in such cases, the Public Prosecutor may call witnesses named by an accused without means of support, if the accused so requests and if it is considered that their evidence will help to ascertain the truth (art. 471).

114. If, in any court, the accused speaks a language or dialect which is not well understood, or if it is necessary to translate a document introduced as evidence, the presiding judge appoints an interpreter, otherwise the proceedings are null and void. If the person on trial is deaf or dumb, the proceedings are modified to enable him to follow them fully (art. 313).

115. In criminal cases, there are no restrictions on evidence. This is provided in article 228 of the Code of Criminal Procedure, which states: "Offences may be proved by any means and the judge shall decide on the basis of his personal conviction." Accordingly, confession is not a preferred means of proof. Nor is the court required to take account of a confession recorded in a police or Gendarmerie report. Regardless of the evidentiary value of the report (reports are considered conclusive in the absence of evidence to the contrary in cases of minor offences or misdemeanours and simply as information in criminal cases), according to a clear ruling of the Supreme Court, reports are taken as evidence of the content of statements, but not of their veracity.

116. Also, at the pre-trial examination stage, the Code of Criminal Procedure allows witnesses named in a complaint to refuse to appear as witnesses, in which case the court can hear them only as accused; this has the positive effect of entitling them to all the guarantees extended to accused persons (assistance of a lawyer, right to be informed of the charges against them, etc.).

117. The law (Code of Criminal Procedure and Dahir of 28 September 1974) lays down a special procedure for minors:

Mandatory pre-trial examination for all crimes, whereas, in the case of non-minors, the pre-trial examination is mandatory only for crimes attracting the death penalty or life imprisonment. The examination is conducted by a juvenile judge;

Right to be informed of charges in the case of ordinary offences. At this stage of the proceedings, the Code of Criminal Procedure (art. 527) provides for temporary placement and observation;

Proceedings in camera, with the mandatory attendance of a criminal juvenile judge;

Replacement of penalties with rehabilitation measures. In special cases, and solely for minors more than 12 years old, a sentence may be pronounced, but must be reduced in the proportions established by the Code (art. 517).

118. The two-tier justice system is a principle established in the instruments on the organization of the judiciary. Decisions handed down by courts of first instance (offences and misdemeanours) can be appealed before the criminal division of the court of appeal. However, there are exceptions to this rule:

Decisions handed down by special courts (Permanent Court of the Royal Armed Forces, Special Court of Justice) are without appeal;

Decisions handed down in criminal cases are also without appeal.

119. However, application for judicial review is possible in all cases. The Court of Cassation is responsible for ensuring strict observance of the law by criminal courts. Its oversight extends to the legal classification of the acts which are the basis of a criminal prosecution, but not to the authenticity of the facts recorded, or to the validity of the evidence presented, except in cases where admissibility is limited by law.

120. Finally, decisions of district or circuit courts, which deal with a number of minor offences (fines of up to 800 dirhams) are not open to ordinary or special appeal. Such offences may however be referred to the presiding judge of the court of first instance in the event of specific procedural irregularities (Dahir of 15 July 1974 establishing district or circuit courts, articles 19 and 20).

121. The Code of Criminal Procedure provides for a review procedure to redress an error of fact detrimental to a person convicted of a crime or offence (arts. 612 et seq.).

122. A court finding a convicted person to be innocent may, at the request of that person, award damages for the injury caused by the conviction. Where the person concerned is deceased, the spouse, parents or descendants are entitled to apply for damages.

123. The damages awarded are borne by the State, notwithstanding proceedings against claimants for criminal indemnification, informants or witnesses on whose false evidence the sentence was pronounced.

124. The force of res judicata, a principle embodied in the Code of Criminal Procedure, precludes prosecution for an offence on which a judgement has already been reached.

125. Article 3 of the Code of Criminal Procedure lists "a case on which an irrevocable judgement has been reached" as one of the grounds for terminating public action. Consequently, when a final ruling has been reached on an offence, this has the effect of terminating public action and barring prosecution for the same acts. Furthermore, article 351 of the Code provides that "any person acquitted of an offence may not subsequently be prosecuted for the same acts, even under a different classification". This article is contained in a section on "common rules for the various categories of court concerning the conduct of proceedings and pronouncement of verdicts" and thus applies to all offences, regardless of their gravity.

Article 15. Principle of non-retroactivity of the law

126. The preamble to the Constitution embodies the principle of the legality of offences and penalties (art. 10) "No person may be arrested, detained or

punished except in the cases and manners prescribed by law" and the principle of non-retroactivity of the law "The law shall not have retroactive effect" (art. 4).

127. These principles are also embodied in the Penal Code, article 3 of which proclaims the principle of legality, as follows: "No person may be convicted for an act which is not expressly defined as an offence by law, or subjected to penalties not prescribed by law". Article 4 stipulates that the law applicable to the judgement of an offence is that in effect on the date when the offence was committed. Finally, articles 4 and 5 provide for the immediate application of the least stringent law:

> Article 4: "No person may be convicted for an act which, under legislation adopted subsequent to its commission, no longer constitutes an offence; if a sentence has been pronounced, the execution of principle and accessory penalties shall be terminated."
>
> Article 5: "Where a number of laws were in force between the time when the offence was committed and the time of the final judgement, the law whose provisions are the least severe shall be applied."

Article 16. Right to recognition as a person before the law

128. Under Moroccan law, any person has legal status from his birth until his death. That status is defined as the ability to enjoy and exercise rights. The rights to recognition as a person before the law are laid down in the various tracts: rights to the free exercise of human activity (movement, work, inviolability of domicile, etc.) and political rights guaranteed by the Constitution and the Code of Public Freedoms, family rights laid down in the Code of Personal Status, and inheritance rights (Code of Obligations, Code of Property). There are, however, cases of incapacity which can be defined as the inability of the persons concerned to enjoy rights and perform obligations.

129. Incapacity to exercise rights, which is treated as a deprivation of rights, is a serious matter and is therefore applied in special cases only. It exists in the form of criminal penalties, including:

> Civic dishonour, a criminal penalty depriving the individual of a number of civic rights;
>
> As a correctional penalty: deprivation of certain civil, civic or family rights;
>
> As a security measure: the convicted person may be barred from engaging in certain occupations and from the exercise of parental authority.

These penalties are subject to the principle of legality of the offence and the punishment and cannot be pronounced except in the cases and for the periods prescribed by law.

130. Other restrictions are placed on aliens, who may not hold certain positions for which Moroccan nationality is required.

131. There are also forms of incapacities whereby an individual is barred from exercising a right to which he or she is entitled. The Code of Personal Status provides for three types of incapacity to exercise rights:

Incapacity of minors;

Incapacity due to impairment of mental faculties;

Incapacity as a result of prodigality.

132. The Code provides for the protection of incompetent persons by prescribing the procedure for declaring them incompetent, their legal representation and the inspection of documents signed by a representative.

133. The Penal Code also provides for incapacity to exercise rights as a penalty, i.e. statutory interdiction, as an accessory penalty to a criminal sentence depriving the convicted person of the exercise of his rights of inheritance while serving his sentence, and lays down the procedure for his legal representation.

Article 17. Right to privacy

134. The right of everyone to privacy is recognized by the Constitution of 13 September 1996 which guarantees inviolability of domicile (art. 10) and secrecy of correspondence (art. 11).

135. Article 10, paragraph 2, provides that "the domicile shall be inviolable. Searches or checks shall be made only under the conditions and in the manner prescribed by law".

136. In addition, the Code of Criminal Procedure (CPP) specifies the conditions under which searches may be carried out. Article 64 states that searches may be made only at the request of the head of the household or in response to calls for help coming from inside the house or in exceptional circumstances specified by law. Article 103 of the Code defines those exceptional circumstances: where a crime is concerned, it is the examining magistrate, accompanied by the Crown Prosecutor, who is empowered to conduct a search. Where offences other than crimes or offences discovered in flagrante delicto are concerned, the power to search is vested in the judicial police acting under the authority of the examining magistrate or his deputy. Penalties for failure to observe these conditions are laid down in article 230 of the Code.

137. Article 232 sets penalties for arbitrary or unlawful interference by a public official with the secrecy of correspondence.

138. In addition, minors, in the penal sense of the term, enjoy special protection when brought before the courts as offenders. Regardless of the court, proceedings are held in camera (Dahir of 28 September 1974).

139. Judgements by juvenile courts are entered in a special non-public register (article 561 of the CPP). After five years have elapsed, the court

pronouncing the judgement may on its own initiative or at the request of the Public Prosecutor, delete the entry (articles 562 and 563 of the Code of Criminal Procedure).

Article 18. Freedom of thought, conscience and religion

140. The Constitution of 13 September 1996, like the preceding constitutions, affirms the equality of all before the law (art. 5), freedom of opinion and freedom of all forms of expression (art. 9) and provides that the State guarantees freedom of worship to all (art. 6).

141. Freedom of worship is expressed through recognition of the free public practise of monotheistic religions.

142. As in the past, the members of the Jewish community which has existed for centuries in Morocco enjoy their own personal status as defined by their own religious authorities.

143. In this same spirit of tolerance typical of Islam, Christians are free to worship without any discrimination.

144. However, article 6 of the Constitution declares Islam as the State religion. Virtually all citizens of Morocco are members of the Muslim religion. Consequently, Muslim religious values are part of public order and determine government action.

145. It is for this reason that criminal law lays down penalties for conduct likely to openly offend the religious sensibilities of the community, such as attempts to weaken the faith of a Muslim (articles 220 et seq. of the Penal Code) or the public breaking of the fast during the month of Ramadan.

146. Nevertheless, there are no regulations in Morocco which require an individual to declare his religion when applying for any position or taking part in any public activity.

Article 19. Freedom of opinion and expression

147. Freedom of opinion and expression in all its forms is guaranteed by article 9 of the Constitution. This is reflected in the regulations governing the freedom of the press, one of the main freedoms covered by the Moroccan Code of Public Freedoms.

148. Regulations governing the freedom of the press are based on Dahir No. 1-58-378 of 15 November 1958 containing the Moroccan Press Code, as amended principally by the Dahir of 10 April 1973, and on Dahir No. 1-59-245 of 2 September 1959 introducing measures to supplement the Dahir of 15 November 1958.

149. Various public freedoms are covered by these regulations, namely, freedom of information, freedom of publication and freedom of distribution.

150. There is freedom of publication (art. 3). Regulations governing the freedom of publication are different for national and foreign publications.

Publication of a new national newspaper or periodical requires notification of the authorities (art. 5 (a)), which simply acknowledge receipt (art. 6). Foreign publications, newspapers or periodicals require authorization by decree, on application in writing to the information service (art. 28 (2)).

151. Freedom of information is subject to accuracy. Publishers must be able to substantiate the facts reported in a publication (art. 49 (3)).

152. The publication of inaccurate or fabricated information or articles likely to disrupt public order is punishable by imprisonment and by a fine (art. 42), these penalties being increased if the publication is such as to be detrimental to the discipline or morale of the army.

153. A publication containing information naming or referring to an individual (art. 26) or public official and inaccurately reporting acts performed in the course of his duties (art. 25) must publish the reply of the person concerned free of charge.

154. Before any prosecution, the judicial police may seize any publication deemed contrary to public decency or morality (art. 64).

155. A publication which undermines the institutional, political or religious establishment is liable to criminal and/or civil penalties and may be suspended by the Minister of the Interior (art. 77 (2)).

156. Any publication likely to disrupt public order may be seized by the authorities (art. 77 (1)).

157. Freedom of distribution is not specifically guaranteed or governed by the Code of Public Freedoms. Relevant provisions in the Code concern publications. The freedom to disseminate information in Morocco operates at two levels: firstly, through the official information media and secondly through the non-governmental media.

158. The official information media in Morocco comprise the news agency Maghreb Arabe Presse and the Radio-télévision Marocaine (RTM) broadcasting service.

159. Maghreb Arabe Presse, which was formed as a private agency in 1959, is now a public agency governed by the Dahir of 19 September 1977.

160. The radio and television channel, a State monopoly based on the Dahirs of 25 November 1924 and 18 May 1959, is used by the RTM public system, which is governed by the Dahir of 22 October 1966. This channel, a State monopoly for many years, has been opened to private broadcasting services, namely, the Médi I radio service, following the signing of an agreement between the Moroccan Government and a foreign company in 1980, and the 2 M television network, following the signing of an agreement between the Moroccan Government and a national private company in 1988. This company, which proved to be financially unsound, has been bought by the State.

161. Outside these carriers, information and opinion is disseminated in written publications through bookshops, distributors, hawkers and vendors. Bookshops are free of restrictions (article 1 of the Press Code).

Article 20. Prohibition of propaganda for war

162. Propaganda for war and incitement to hatred in any form are strictly prohibited by law.

163. The Moroccan Penal Code stipulates that "any propaganda for war is prohibited by law". Article 188 of the Code lays down severe penalties ranging from 5-30 years' imprisonment for "any Moroccan or foreign national, who, through hostile acts ... exposes Morocco to a declaration of war".

164. Article 201 stipulates the maximum penalty for "any act designed to provoke civil war by arming or inciting the people to take up arms against one another, or to cause devastation, massacres and looting in one or more douars or localities".

165. These provisions thus reflect those of article 20 of the Covenant.

Article 21. Right of peaceful assembly

166. Public meetings may be held freely, subject to prior notification (article 3 of the Dahir of 15 November 1958 on public gatherings). The authorities issue a receipt which must be produced on request.

167. The meeting must not be held earlier than 24 hours following the issue of the receipt. Unfortunately, the receipt-issuing procedure is sometimes regarded by the authorities as an authorization procedure.

168. If no receipt is issued by the authorities, the persons concerned may send in their notification by registered letter, in which case, the meeting may not be held until 48 hours after the letter is sent. The public is generally unaware of this provision, which saves them having to wait indefinitely for the issue of the receipt.

169. According to Ministry of Interior statistics, 18,000 meetings and rallies attended by some 500,000 persons were held between August 1993 and August 1996.

Article 22. Freedom of association

170. Freedom of association is guaranteed by the Constitution (art. 9) and is governed by the Dahir of 15 November 1958 in the case of associations of persons and by the Dahir of 16 July 1957 in the case of trade unions.

171. Freedom of association means freedom to form an association, freedom of that association to chose its members and to dissolve itself (article 9 of the Constitution, article 2 of the Dahir of November 1958), freedom of the individual to join or not to join an association or to withdraw from it (article 9 (4) of the Constitution).

172. The freedom of individuals in exercising their right to associate is limited, however, by a number of legal obligations. In recruiting their members, political parties must avoid any discrimination based on race, religion or region of origin (art. 17 (2)).

173. Freedom of association applies to aliens (art. 23). National (art. 2) and foreign (art. 23) associations may be formed freely, subject only to notification. The authorities must acknowledge receipt of the notification (art. 5).

174. According to Moroccan case law, an association is not obligated to declare itself in order to exist and engage in its activities. However, an undeclared association cannot enjoy the rights accorded by law to a declared association, namely the right to collect dues from its members, the right to institute legal proceedings and the right to apply for and receive State subsidies.

175. Unions or federations of foreign associations must, on the other hand, be authorized by decree (art. 26).

176. A declared association may receive dues from its members; it may also receive State subsidies, take action before the courts, make purchases, hold and administer funds consisting solely of dues from its members and any State subsidies, own and administer the premises and equipment for its administration and meetings of members, as well as the buildings strictly necessary for the achievement of the association's aims (art. 6).

177. This minimum legal capacity may be extended:

If the association is recognized as being in the public interest (arts. 19-13); recognition, on application by the association, is accorded by Dahir following inquiries by the appropriate authorities;

If the association is an occupational organization, in which case the expanded legal capacity of the association is as provided in the Dahir of 16 July 1957.

178. Since the amendment of the Dahir of 15 November 1958 by the Dahir of 10 April 1973, the association may cease to exist if the Government decides by decree to dissolve it because its activities are likely to disrupt public order (art. 7).

179. However, occupational organizations may not be dissolved by the authorities (articles 9 and 22 of the Dahir of July 1957 provide only for voluntary, statutory or judicial dissolution).

180. According to Ministry of Interior statistics, the total number of associations formed from the end of August 1993 to the end of August 1996 is about 8,000, broken down as follows:

2,351 sports associations;

1,291 cultural associations;

473 occupational organizations;

370 political organizations;

309 educational organizations;

80 art associations;

2,952 miscellaneous organizations (agricultural, social, economic, parents of schoolchildren, etc.).

181. Regarding the freedom of association of civil servants, the decree of 5 February 1958 implementing the Dahir of 16 July 1957 on freedom of association accords civil servants and public officials the right to associate. The Dahir enacting the statutes of the civil service provides that membership of an occupational association must not entail any consequences with regard to recruitment, advancement, assignment or, in general, the situation of officials covered by the statutes. Under article 48 of the Dahir, civil servants may be released to hold a public or trade-union office when that office entails obligations preventing the normal performance of their duties. Prime Minister's circular No. 17/94 Cab of 14 November 1994 calls on government departments to extend to staff members holding a trade-union office all the facilities necessary for the discharge of their duties (leave of absence, permission to attend meetings, conferences, etc.).

Article 23. Protection of the family

182. The Code of Personal Status provides for the protection and organization of the family.

183. Under article 8 of the Code, the marriageable age for men is 18 years and 15 years for women. Marriage before the age of legal majority (20 since 1992), requires the consent of the legal guardian. If the legal guardian refuses consent and the disagreement is unresolved, the matter is decided by the courts.

184. The consent of the spouses is of paramount importance, and article 4 of the Code of Personal Status provides that "marriage shall be validly concluded by the mutual consent of the parties expressed in traditional terms or in any other customarily accepted form".

185. Although the bride-to-be must of course be represented by her wali (matrimonial guardian), the law is quite clear as to the need for her consent. Article 12 provides that matrimonial guardianship is a woman's right and that the wali cannot give her in marriage unless she authorizes her to do so; article 13 provides for court intervention in the event of unjustified opposition to the marriage on the part of the wali.

186. A 1993 amendment to the Code of Personal Status (Dahir promulgating law No. 1-93-347 of 10 September 1993) removed the last remaining possibility of forced marriage from the Code and stressed the need for the consent of the woman; this reform also enabled fatherless women of legal age to conclude their own marriage or to delegate a wali of their choice.

187. Equal rights and duties of the spouses during or upon dissolution of the marriage is not fully realizable in that family status in Morocco is based on Islamic law which has a somewhat different conception of these matters.

188. Morocco did not enter any reservations on this paragraph of article 23 when ratifying the Covenant on Civil and Political Rights. However, when ratifying the Convention on the Elimination of All Forms of Discrimination against Women, it entered reservations on article 16 (concerning the elimination of discrimination in matters relating to marriage and family relations). Those reservations were as follows:

> "The Government of the Kingdom of Morocco enters reservations regarding the provisions of this article, in particular those relating to equal rights for men and women during marriage and at its dissolution, as such equality is contrary to the Islamic Shariah, which assigns rights and responsibilities to each of the spouses on a basis of equilibrium and complementarity in order to preserve the sacred bonds of marriage. Under the Islamic Shariah, the husband is obligated to provide the dowry on marriage and to maintain his family, while the wife is not obligated, under the law, to maintain her family. Similarly, after dissolution of the marriage, the husband is also obligated to pay maintenance. The wife, on the other hand, is completely free both during the marriage and after its dissolution, to administer and dispose of her property without any control by the husband, who has no power over his wife's property."

189. The Code of Personal Status provides for protection of the child through the institution of guardianship (hadana). Guardianship entails "protecting the child as far as possible from anything which could be injurious to him, raising him and watching over his interests" (article 97 of the Code). It is the responsibility of both parents during the marriage. In the event of dissolution of the marriage, the Code sets out the order of priority for its exercise; the list begins with the mother, followed by the father and then the members of the family, in the order prescribed. It should be noted that the 1993 reform included the father for the first time in the list.

190. On dissolution of the marriage, custody falls in the first instance to the mother, and the Code provides for payment of maintenance by the father, the amount of which is determined on the basis of the husband's means, the circumstances of the wife and current prices.

191. The 1993 reform expedited the procedure for allocating maintenance payments (amendment of articles 119 of the Code of Personal Status and 179 of the Code of Civil Procedure) and made it a preferential claim (amendment of article 1248 of the Code of Obligations and Contracts).

Article 24. Protection of children

192. The Moroccan Government is currently engaged in ensuring that its domestic law conforms, in a manner consistent with its fundamental social and cultural values, with the principles and rules laid down by the international community in the field of human rights in general and the rights of the child in particular.

193. In this connection, Morocco's ratification of the Convention on the Rights of the Child (21 June 1993), was a further incentive to bring its legislation into closer alignment with the provisions of the Convention and to promote action for the benefit of children.

Name

194. The right to a name at birth derives from our country's history and sociological circumstances, so that its legitimacy is beyond any doubt. Every child is given a first name within a week of birth and automatically receives the father's family name (article 83 of the Code of Personal Status).

195. The regulations governing civil status also require registration within 30 days of birth. The registration system, which was extended by the Dahir of 8 March 1950, does not yet cover the whole population. However, there is proposed legislation which would make it compulsory for all Moroccans, as well as for aliens born in Morocco (article 2 of the draft legislation).

196. For the time being, any child may establish its status by means of a birth certificate issued by a registrar. If the parents are not registered, the authorities issue certificates based on common knowledge. This enables all children, registered or otherwise, to establish their identity, including their name, through official documents.

Nationality

197. Nationality is governed by the Code of 6 September 1958. It is acquired by filiation, so that any child born of a Moroccan father or of a Moroccan mother and an unknown father (art. 6) has Moroccan nationality. A child born in Morocco of a Moroccan mother and a stateless father or of unknown parents also has Moroccan nationality. However, in this last case, a child born in Morocco of unknown parents will be considered never to have been a Moroccan national if, during his minority, he is found to be the child of an alien who can transmit his own nationality to him (art. 7).

Article 25. Right to take part in the conduct of public affairs

198. The right of Moroccan citizens to take part in the conduct of public affairs, either directly or through representatives, is guaranteed by the Moroccan Constitution and was recently strengthened by the latest revision of the Constitution on 13 September 1996.

199. Morocco is a constitutional, democratic and social monarchy (article 1 of the Constitution). Sovereignty is vested in the nation, which exercises it directly by way of referendum or through constitutional institutions (art. 2). The single-party system has been prohibited (art. 3 (2)) since the first Constitution of 1962, and the multiparty system is well established in Morocco. Men and women enjoy equal political rights with regard to voting or standing for election (art. 8). All Moroccans are equal before the law (art. 5) and are equally eligible for public office (art. 12).

200. The procedure of choice for the adoption or revision of the Constitution has been the referendum, the most recent of which was held on 13 September 1996.

201. The elective constitutional institutions representing the will of people, following the last revision of the Constitution on 13 September 1996, are the Chamber of Representatives and the Chamber of Councillors. The creation of the latter marks Morocco's adoption of the bicameral system.

202. Instead of a single chamber, most of whose members were elected by direct, and the rest by indirect, universal suffrage, as was the case before the last revision, there are now two chambers, a chamber of representatives elected by direct suffrage and a Chamber of Councillors elected by indirect suffrage. Three-fifths of the members of the Chamber of Councillors must be elected in each region by an electoral college comprising representatives of local communities and two-fifths must be elected in each region by electoral colleges comprising elected representatives of professional associations and members elected at national level by an electoral college of workers' representatives. Members of the Chamber of Councillors are elected for nine years.

203. One-third of the Chamber is re-elected every three years. The Chamber of Councillors takes part in drafting legislation with the Chamber of Representatives, which has the last word in the event of disagreement and has the right to censure the Government. Motions of censure must be signed by at least one-third of its members and approved by a majority of two-thirds.

204. Citizens' participation in public affairs is not limited to the national level, but applies also at local level. Communal, provincial and prefectural assemblies are all representative institutions, which are elected by the citizenry. Following the last revision of the Constitution on 13 September 1996, a new local community - the region - has been created to strengthen participatory democracy.

205. Voting in national or local elections is the single-candidate, one-round, simple majority system.

206. With the latest revision of the Constitution, 1997 will be an important electoral year which will include elections for the Chamber of Representatives, the first election of the Chamber of Councillors and elections for local assemblies. In view of this, the Government, in consultation with all national political parties, is working to ensure proper voter registration.

Article 26. Prohibition of discrimination

207. Non-discrimination is a constitutional principle reaffirmed by Morocco's ratification of relevant international conventions and the provisions of its national law. Article 5 of the Constitution, for example, proclaims the equality of all before the law, while article 8 provides for equal political rights for men and women. Subsequent provisions guarantee citizens completely equal freedom of movement, freedom of expression in all its forms, freedom of assembly and freedom to join the occupational and political organizations of their choice (art. 9). Finally, articles 12 and 13 proclaim equality in employment and education.

208. Accordingly, Morocco has ratified a number of relevant international conventions, including:

ILO Convention No. 100 on equal remuneration;

ILO Convention No. 111 on non-discrimination in employment and occupation;

The International Convention on the Elimination of All Forms of Racial Discrimination (7 July 1996), International Convention against Apartheid in Sports (10 December 1985) and the Convention against Discrimination in Education (14 December 1960);

The Convention on the Elimination of All Forms of Discrimination against Women (21 June 1993). This Convention was published in the Bulletin officiel of 19 December 1996.

209. Domestic legislation also undergoes continuous reform with a view to consolidating this equality and action to combat discrimination. Efforts are now being made to make this principle a fundamental rule. Article 8 of the draft labour code clearly illustrates this resolve by proclaiming: "All discrimination based on race, colour, sex, marital status, religion, political opinion or national or social origin and designed to eliminate or adversely affect equality of opportunity or treatment with regard to employment or occupation, in particular regarding recruitment, the performance or distribution of labour, vocational training, wages, promotion, the granting of social benefits, dismissal and disciplinary measures, is prohibited."

210. There are, however, a number of exceptions to this rule regarding personal status (broader wilaya of the father over daughters than over sons, lack of adoptive filiation and differences in shares in an estate) which have a religious basis.

Article 27. Rights of minorities

211. Moroccan society is of Berber origin. It was converted to Islam in the sixth century and received and incorporated various Muslim groups and communities from the Middle East, sub-Saharan Africa and Andalusia. In many regions, arts, languages and local dialects passed on by popular tradition reflect the diversity of society and enrich it.

212. Under the Constitution, Arabic remains the official language of Morocco. It is used by the State to strengthen national identity and social cohesion. At the same time, however, government policy is to recognize the right of ethnic or religious groups (ethnic communities, Hebrew community) to manage their collective resources (common land, cultural heritage).

213. The Moroccan legal system, of which Islam is one of the main pillars, regards the exercise of freedom of worship as one of the basic rights of the individual and not as a basis for determining an individual's personality or the nature of the rights to which he is entitled. There is no difference between Moroccans, whatever their religion.